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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-first session

PROVISIONAL SUMMARY RECORD OF THE 943rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 5 August 1992, at 3.p.m.

Chairman: Mr. VALENCIA RODRIGUEZ

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Fifth and sixth periodic reports of Bangladesh (CERD/C/192/Add.3) (continued)

1. Mr. YUTZIS, country rapporteur for Bangladesh, continuing the statement he had begun at the end of the previous meeting, said he wished to deal with questions relating to implementation of article 5, paragraph (c), of the Convention. In that connection, it was important that paragraph 9 of the report (CERD/C/192/Add.3) should be seen in its historical context: it was in 1900 that the British had enacted a special administrative regulation designed to protect the interests of the tribal peoples of the Chittagong Hill Tracts, referred to in that paragraph. According to his information, however, that regulation - which provided a measure of protection, notably in regard to land ownership - was not really being applied. The district councils set up under Act No. 89 would appear to guarantee some representation for the ethnic groups of the region. However, that in no way ruled out conflicts of interest, since Bengalis were also represented alongside the various tribal communities, and problems tended to arise between the one and the other, notably in regard to land ownership. That was an extremely delicate and very specific situation, the solution to which was in the hands of the regional authorities.

2. It should be noted that Act No. 89 concerning district councils had no constitutional basis, and could be repealed at any time. In any event, the jurisdiction of the district councils - which included Bengalis - covered only 10 per cent of the land, and according to his information, a substantial part of the land in the region had been placed under military control. Reports indicated that elections to the district councils had taken place under pressure from the military.

3. He would therefore be glad if the delegation of Bangladesh would clarify whether the special regulation of 1900 was actually being applied, what was the reason for the arrival of Bengalis in the Chittagong Hill Tracts, and whether ethnic groups in the region were being effectively protected. According to reliable sources, it would appear that the Government had claimed that the regulation in question was not in force, since it had not been published in the Official Gazette. That was an extremely important question, and an answer should be provided as soon as possible.

4. In regard to article 5, paragraphs (a) and (b), and article 6 of the Convention, information received from various sources seemed to show that there had been occurrences of very long-term arbitrary detention, involving, in particular, one of the founder members of the People's Council of the Chittagong Hill Tracts, who had been held for a year without charge and without his case being investigated, before being released by decision of the Supreme Court. It would therefore appear that the legal system was not guaranteeing adequate protection for the minorities of the Chittagong Hill Tracts. In August 1991, a number of people had been imprisoned without trial and without being told the reasons for their detention. It was alleged that, in May 1991, the Fifth Bengal Regiment, while searching for members of the Shanti Bahini in the region, had assaulted at least 17 civilians; one case of a person found dead and mutilated and several cases of torture had been reported between April and June 1991. According to reports by Amnesty International and the Anti-Slavery Society, the army had allegedly tortured or assaulted civilians during that period. It was claimed that in October 1991 women had been raped, houses destroyed and Buddist temples desecrated. Most of those actions would appear to have been committed in the course of counter-insurgency operations.

5. With reference to article 5, paragraphs (d) (vii) and (viii), of the Convention, there had been recent cases in which reports or magazines dealing with the question of the Chittagong Hill Tracts had been seized. It was also a matter for concern that a number of publications had reported attempts forcibly to convert the inhabitants of the region to the official religion of Bangladesh.

6. Forced population transfers in the Chittagong Hill Tracts had been reported for some considerable time. The modernization process admittedly called for some changes in farming methods in the interests of development, but that in no way justified the transfer of entire population groups with a view to replacing food crops by large plantations, which would profit private interests but would not necessarily benefit the minorities living in the region.

7. It followed that there were a series of unsolved problems in Bangladesh which were not covered in the report. He requested the delegation of Bangladesh to confirm or deny the reports he had just mentioned in regard to

the Chittagong Hill Tracts, to state whether a distinction could be made between the problems posed by armed struggle and respect for civilian populations, and to indicate how far the process of militarizing the region was to go, to what point a colonization policy directly harmful to the inhabitants was to be pursued, how long the forced resettlements imposed on the latter were to continue, what measures the Government intended to take to protect the ethnic groups of the region and to ensure that their holy places, their heritage and culture were respected, and lastly, what were to be the powers of the district councils, and when was the regulation of 1900 referred to in paragraph 9 of the report to come into force.

8. The Committee's mandate was to monitor implementation of the Convention; as a member of the Committee, despite the respect in which he held Bangladesh, he felt bound to state that that country was not fulfilling the obligations it had assumed in ratifying that instrument. He was well aware of the complexity of the situation in the country, but hoped that in a subsequent report the Government of Bangladesh would supply information enabling the Committee to conclude that the rights and interests - indeed, the lives - of the inhabitants of the Chittagong Hill Tracts were being respected.

9. Mrs. SADIQ ALI said that in view of the remarkable account just given by Mr. Yutzis of the situation in Bangladesh, she would confine herself to only a few questions. Bangladesh's recent return to democracy was encouraging, and raised hopes that a number of problems could now be solved - although the military was always in the background and intervention on its part could not be completely ruled out.

10. A new exodus of refugees from the Chittagong Hill Tracts had begun that year, following the Longang massacre. The Prime Minister, during her visit in May 1992, had been handed a memorandum calling for a political solution to the problems of the region, respect for the land rights of its inhabitants, dissolution of the district councils, rehabilitation of the 60,000 refugees who had fled the country, creation of a safe environment for the hill people and the setting up of a judicial commission to investigate the Longang massacre. Was any political solution to that 16-year-old problem in sight?

11. In regard to implementation of article 3 of the Convention, the Government of Bangladesh had never denied the existence of cluster camps practising "collective farming"; local authorities had even indicated that the

collective farms had a two-fold objective: to cut communications between the indigenous Jumma people and the Shanti Bahini forces, and to ensure the future rehabilitation of repatriated refugees. They had indicated that in some areas all returning refugees had been interned in cluster camps for "civilizing" and protection purposes. According to the Chittagong Hill Tracts Students' Council, those living in such camps were subject to very severe restrictions and could not travel without permission. The movements of Jumma villagers were controlled by the military, who had the power to cut them off from essentials such as medicines, clothing and food. There were said to be about 50 such camps in the Chittagong Hill Tracts. In addition to internment, government policy aimed to convert the Jummas to the Islamic faith; as part of an assimilation policy, military personnel were often encouraged to marry Jumma girls.

12. Article 5, paragraph (d) (v), of the Convention dealt with the right to own property. The introduction of 300,000 Bengali settlers from other parts of the country had led to massive violations of the property rights of the hill people; there had been cases of illegal take-overs of land without compensation or resettlement of the persons affected. Colonization of the area should be halted, the many Bengali settlers who had expressed a wish to leave should be given the opportunity to resettle elsewhere, and the land occupied should be restored to the tribal populations: what was the policy of the new democratic Government in that regard, notably concerning the Vested Property Act, under which land owned by tribal populations and Hindus could be taken over by the Government? President Evshad had announced that property seized from the Mandis under the Act would be restored to them, but following his resignation in 1990, the restoration process had been halted. In view of the fact that the Act had been used to violate the rights of minorities, were there any plans to repeal it?

13. With regard to the right to freedom of opinion and expression enshrined in article 5, paragraph (d) (viii), of the Convention, a fact-finding mission had visited the Chittagong Hill Tracts, in November 1990. The official report published after that mission spoke of countless cases of gross human rights violations and acts of oppression perpetrated against the 12 Buddhist, Hindu and Christian tribal communities who lived there. In that report, the Government was accused of continuing to persecute those populations. The

report had been suppressed, and the police had also seized a large number of copies of reports of the international human rights commission. The Chairman of the fact-finding mission had urged the Government of Bangladesh not to persist in suppressing the report, since to do so would be tantamount to a grave violation of the basic rights of freedom of expression and access to information.

14. Lastly, in regard to article 5, paragraph (e), of the Convention, she would like to know whether the share-cropping system, under which half of the crops went to the landowner, was to be ended and agrarian reforms introduced.

15. Mr. DIACONU said that after reading the report and listening to the statements by the representative of Bangladesh and by the country rapporteur, he was puzzled at what appeared to be two different versions of the situation in Bangladesh. The country, which had 100 million inhabitants, was extremely poor, and it was important to take due account of the development effort currently being made. The report had some encouraging features, for example, the statement that posts in the administration had been reserved for certain ethnic groups, and that a quota system had been introduced for access to education, a policy which amounted to positive discrimination towards disadvantaged sectors of the population - although such discrimination was of course only a stage along the road to full equality. Another encouraging sign was that more schools for minority communities had been opened; similarly, economic planning continued to favour disadvantaged regions.

16. Other points made in the report were less clear. Concerning article 4 of the Convention, it was stated that the authorities had not considered it necessary to adopt measures penalizing racist propaganda, and that in cases of incitement to racial or ethnic discrimination, the criminal law applied, though there was no indication of which provisions of the criminal law would be applicable in such cases, or how they would be put into effect.

17. The information on the implementation of article 5 of the Convention was still far too vague. A number of laws were referred to in regard to freedom of religion, but no actual facts were supplied about the religions practised in Bangladesh, the relationship between them, the existence or otherwise of a State religion, or the attitude of the State towards all those religions.

18. According to paragraph 25 of the report, every citizen had the right to Bangladesh nationality, a statement that was difficult to understand. Did not a citizen, by definition, have the nationality of his country? The phrase certainly called for clarification. While he did not know whether there were any groups or organizations advocating racial discrimination in Bangladesh, previous speakers had described discriminatory activities in regard to this or that minority: if that was the situation, what measures was the Government taking to punish those responsible?

19. In conclusion, he said that he fully appreciated the efforts being made by Bangladesh and the problems it faced in emerging from underdevelopment and guaranteeing a minimum of social order. He nevertheless hoped that as a result of the dialogue initiated with the Committee, the country's problems in the area of racial discrimination might be overcome.

20. Mr. SONG Shuhua thanked the representative of Bangladesh for his introduction of the report and the country rapporteur for his interesting analysis. Some pertinent questions had been raised, and he would like to add a few of his own.

21. First, it was stated that the Chittagong Hill Tracts had some 800,000 inhabitants, 500,000 of whom belonged to tribal minorities; it would be useful to know the exact numbers of those different minorities, their level of education, etc. It was stated in paragraph 11 of the report that a great deal had been done to develop the region and that the hill districts were now more developed than those of the plains; it would be useful to know in what way that was so. Mention was made in another paragraph of more backward regions: were they the districts of the plain or other areas of the country?

22. It was further stated that steps had been taken to facilitate the hill people's access to higher education: what had been done to ensure that such students received training of a high standard? It was stated in paragraph 12 of the report that the conditions of access to employment had been relaxed for the minorities of the Chittagong Hill Tracts, notably in regard to age limits; what was the Government's policy on the matter of child labour? Lastly, with regard to government posts, it would be useful to know how many posts were held by inhabitants of the regions concerned and what percentage of members of parliament and occupants of senior posts came from the Chittagong Hill Tracts.

23. Mr. de GOUTTES fully supported the views expressed by Mr. Yutzis and the comments made by other members. While he agreed that Bangladesh was a very poor country, which was fighting courageously for democracy and against underdevelopment, he had been struck by the omissions in the report under consideration, notably in regard to the discrimination, and even violence, suffered by the minority tribes.

24. A further omission concerned the implementation of the Convention in domestic law. In that regard, the report of Bangladesh contained some faulty reasoning. It was first stated in paragraph 8 that the Convention was not directly enforced in domestic law, but it was later stated in paragraph 18 that Bangladesh had not considered it necessary to adopt specific laws in that connection, since the criminal law was considered adequate. In fact, the provisions of criminal law quoted in paragraph 42 made no reference to acts of a discriminatory, racist or ethnic character. If those were the only provisions of the Penal Code corresponding to the requirements of the Convention, it had to be concluded that the Convention had not been made applicable in domestic law.

25. Mr. BANTON requested the representative of Bangladesh to study the list of written questions he had given him, and to take them into account in his replies. It would appear, for example, that the question concerning the Vested and Non-Resident Property (Administration) Act of 1974 had never been raised, and he would like to know what was the current situation in regard to the abuses that might result from the Act. It would also be useful to know the exact meaning of the claim in paragraph 42 of the report that "adequate legal provision for seeking justice is available under the ... Acts".

26. Mr. FERRERO COSTA pointed out that reports should not only list relevant provisions of domestic law, but should also explain how those provisions were implemented in practice. In view of the importance of the question of the situation of minorities in the Chittagong Hill Tracts, Bangladesh should give detailed replies to the questions raised on the matter.

27. He would confine himself to five comments, which were applicable to other countries as well as Bangladesh. First, while Bangladesh was undeniably encountering special difficulties, those difficulties in no way justified the perpetration of acts of racial discrimination, and did not preclude the Committee from making observations and recommendations with regard to that

country. Secondly, while it was important to have information on minorities, general information was also needed on the various regions and races in the country mentioned in paragraph 9 of the report. Thirdly, the fact that ethnic minorities in Bangladesh represented only a small proportion of the total population did not mean that the country could evade its responsibility for taking measures to guarantee their protection. Fourthly, the statement in regard to article 4 of the Convention that the authorities in Bangladesh had not considered it necessary to take any specific measures was unacceptable. Lastly, the Committee was also unable to accept claims as general and vague as those made in paragraphs 1 and 49 of the report, to the effect that racial discrimination was unknown in the country.

28. Mr. van BOVEN said he appreciated the enormous difficulties faced by a country like Bangladesh, which not only suffered from poverty but was also subject to repeated and severe natural disasters. He nevertheless considered that the Committee should apply the same criteria to such countries as it did to others, since the idea that the inhabitants of poor countries might have fewer rights than those of rich countries was unacceptable where human rights were concerned. He pointed out to the representative of Bangladesh that, under the Convention, questions concerning tribal or indigenous populations also came within the Committee's terms of reference. In his view, members of the Committee would help to make the dialogue with States parties more effective by putting their questions in writing, as had been done by Mr. Banton.

29. In conclusion, he would like to raise the important question of forced population transfers. Population transfers occurred in many regions and for a number of reasons. Bangladesh, for its part, was subject to considerable demographic pressures. It would nevertheless be useful to know what the Government's policy was in that regard, whether the populations concerned were consulted, whether any compensation measures were planned, and lastly, what could be done to avoid such transfers.

30. Mr. LECHUGA HEVIA said he would first like to know why the inhabitants of the Chittagong Hill Tracts were not subject to the same administrative regulations as the rest of the population. While he agreed that the economic situation of developing countries did not justify either discrimination or

acts of violence against certain population groups, he nevertheless believed that that situation should be taken into account when considering the level of resources available in different countries to meet the population's needs.

31. In reply to an invitation from the CHAIRMAN to reply to the questions and comments of Committee members, Mr. KARIM (Bangladesh) said that he was not for the moment in a position to respond to all the questions raised.

32. The CHAIRMAN proposed that the representative of Bangladesh should be asked to transmit to his Government the questions and observations made during the discussion with a request that the desired information should be provided in its next report.

33. Mr. van BOVEN said that while he understood the difficulties of Bangladesh, he feared that if that country's replies were postponed until the next report, all the benefits of the dialogue that had been initiated would be lost. Why could not the representative of Bangladesh make his statement later in the current session?

34. Mr. FERRERO COSTA pointed out that the Committee's objective was to maintain an effective dialogue with States parties. He considered that the best solution would be to allow the representative of Bangladesh one further day, to enable him to prepare his statement. Replies to questions left pending could be given in the next report.

35. Mr. WOLFRUM said he understood that the representative of Bangladesh might not be able to reply immediately to questions raised, but he believed it would be preferable for the Committee, rather than waiting for the next report, to request Bangladesh to provide the information requested within one year, in accordance with article 9, paragraph 1, of the Convention.

36. Mr. LAMPTEY said the Committee could not force the representative of Bangladesh to respond immediately to its questions. Some States were not even represented at the meetings which concerned them. A very large number of questions had been asked, some of which were of a political nature and would require consultation with the Government. If the representative of Bangladesh could not reply the following day, his country would be able to do so in a year or two's time, which would not prevent continuation of the dialogue.

37. Mr. ABOUL-NASR said the Committee had perhaps gone too far in its questions to the representative of Bangladesh. While the Committee was entitled to ask any questions it wished, provided it revealed its sources, he

did not believe it was entitled to pass judgements or to make accusations, as had been done in accusing Bangladesh of State terrorism. The Committee was not a court of law. Bangladesh should be given the opportunity of replying to those questions and accusations, whether it was immediately, the following day, or in the next report; it was for Bangladesh to decide when would be most appropriate.

38. Mr. SHAHI suggested that the representative of Bangladesh should be asked when he believed he would be in a position to reply to the questions raised, and proposed that he should be given time to consult his Government and obtain the information requested. However, the time allowed should not exceed one year, for the reasons given by Mr. van Boven. He pointed out that the country rapporteur for Bangladesh had, in fact, indicated which documents he had used as a basis for his questions.

39. Mr. AHMADU thought that if the Committee's consideration of the reports of States parties was to be improved, it would be better to abandon the system of country rapporteurs. That system did not in fact, reduce the number of questions from members of the Committee. In addition, the Committee ought not to turn itself into a court of law, despite a tendency to do so that he had observed with regret since he had become a member in 1985. Delegations of States parties, particularly those from third world countries, were intimidated, and representatives of those States in Geneva were unable in many cases to reply to questions. Only the foreign minister or the attorney general would be in a position to give the explanations required.

40. Mr. FERRERO COSTA said that while the Committee was not, of course, a court of law, neither ought it to become a forum for diplomatic negotiations. In his view, the system of country rapporteurs had led to a definite improvement in the Committee's work. As far as the representative of Bangladesh was concerned, he was free not to reply to questions raised, but the Committee, for its part, should not evade any of the stages of its procedure.

41. Mr. SONG Shuhua pointed out that the Committee was a body intended for dialogue, not for confrontation. The delegation of Bangladesh was entitled to decide when it wished to reply. The Committee, for its part, could ask for clarification if there were any points that were not clear to it, but without making accusations.

42. Mr. de GOUTTES said that the representative of Bangladesh had not been provided with sufficient information by his Government. However, that situation ought not to create a precedent, and States ought not to feel free to reply whenever they wished: that would run counter to the measures taken by the Committee to strengthen its capacity for action. He reminded the Committee that it had taken steps enabling it to consider the situation in States parties which had not submitted reports. According to one of its own recommendations, it deemed itself empowered to take account of any source of information when considering a given situation. In addition, the intent of another of its recommendations had been to strengthen the independence of its members. In the present case, the Committee ought not to be content with receiving no reply, even if the representative was entitled not to produce one. As far as possible, the information requested should be provided before the next written report.

43. Mr. YUTZIS, speaking as country rapporteur for Bangladesh, said thought should be given, on the one hand, to the Committee's position in regard to the decision of the representative of Bangladesh, and on the other hand, to the differences of opinion within the Committee on a situation of that kind. Human rights necessarily implied interference in the affairs of States. For his own part, he had cited his sources of information, and would be willing to repeat them for the benefit of the delegation of Bangladesh and the Committee. Those sources had referred to a massacre of over 200 women, children and old men. The least that could be done was to check the truth of that allegation. In such a situation, which concerned the right of minorities, it was essential that the Committee should be in a position to reach a decision on the basis of the procedures it had adopted. If that was to be done, the reply of the State concerned should be provided as speedily as possible.

44. Mr. KARIM (Bangladesh) said he would reply to the questions of the country rapporteur at a later stage. With reference to observations of another member of the Committee, who had referred to such matters as terrorism and the take-over of indigenous lands, he pointed out that, under article 9 of the Convention, the Committee was required to examine the reports of States parties, not extraneous information.

45. The CHAIRMAN said it was unfortunate that the Committee could not be given immediate replies. He hoped that replies could be furnished quickly, so that the Committee could accomplish its task.

46. Mr. YUTZIS, speaking as country rapporteur for Bangladesh, asked whether the concluding observations normally adopted by the Committee following consideration of a report would on this occasion have to be left pending until such time as the Government's replies were received.

47. The CHAIRMAN proposed that if replies were submitted by Bangladesh in the course of the session, perhaps by the following week, the Committee should draft its concluding observations on that basis. Otherwise, it might adopt a different procedure and base itself on a text by Mr. Yutzis.

48. It was so decided.

49. Mr. Karim (Bangladesh) withdrew.

Eleventh periodic report of Ghana (CERD/C/197/Add.7)

50. At the invitation of the Chairman, Mr. Amoo-Gottfried and Mr. Blavo (Ghana) took places at the Committee table.

51. Mr. AMOO-GOTTFRIED (Ghana), introducing his country's eleventh periodic report (CERD/C/197/Add.7), said that since the report had been prepared, fundamental changes had taken place and were continuing to take place in Ghana. It would perhaps have been better if a more up-to-date report had been presented, but since the Committee had already arranged its schedule, he had decided as a courtesy to the Committee to appear before it to introduce the present report and to provide some additional information.

52. The last census in Ghana, which dated from March 1984, had shown a total population of 12.2 million, about half of whom were under 14 years of age. The annual growth rate was 2.6 per cent, and the average population density 50 inhabitants to the square kilometre. Subsequently, the Ghana Statistical Service had estimated that in 1990 the population had been over 14.5 million. That population was concentrated in the southern administrative regions: Greater Accra, Western, Central, Eastern, Ashanti and Brong-Ahafo. The other regions - Northern, Upper East, Upper West and Volta - were sparsely populated. If the current rate of growth continued, the population of Ghana was expected to reach 19.2 million by the year 2000. In 1984, the population figures for the main urban centres had been: Accra (capital) - 859,640, Kumasi - 399,312, Tema - 180,649, Sekondi-Takoradi - 176,498, and Tamale - 136,828.

53. In ethnic terms the population was homogeneous, but included groups such as the Akans, the Guans, the Ewes, the Gas, the Dagombas, the Walas, and the Frafras. The major languages were Twi, Fante, Ga, Hausa, Dagbani, Ewe and Nzema. All Governments of Ghana had been concerned to downplay ethnic differences and to forge national integration. Ethnic data were not included in population statistics, and for a number of years had been banned from official documentation. The official language spoken throughout the country was English.

54. With regard to education, there were numerous technical, secondary, commercial and vocational institutions scattered throughout the country, and three universities: the University of Accra, the University of Cape Coast, and the University of Science and Technology in Kumasi, as well as a number of other specialized higher institutions. It had recently been announced that a fourth university was to be opened in Tamale, in the northern region.

55. In regard to health, reasonably good services existed throughout the country. All regional capitals and most districts had hospitals and clinics, and there were teaching hospitals in Accra and Kumasi. In addition, there were clinics operated by religious organizations and private practitioners all over the country. Herbal medicine also played a role, and there was a Government Herbal Medicine Hospital and Research Centre in Akwapim-Mampong.

56. The population of Ghana was made up of Christians both of the orthodox and Pentecostal faiths (approximately 43 per cent), followers of traditional religions (38 per cent), and Muslims (12 per cent).

57. With a view to achieving the democratic objectives of the Provisional National Defence Council of Ghana, officials of the National Commission on Democracy had undertaken an extensive tour of the country in 1990, in order to invite the views of the population on the future constitution. The report compiled following that tour had been referred to a committee of constitutional experts, which had then made its proposals to the Consultative Assembly. The draft constitution prepared by the Consultative Assembly had been adopted by an overwhelming majority in a referendum on 28 April 1992. The ban on political parties had been lifted on 18 May 1992, and since that date numerous political parties had appeared; thus far, five of them had been registered with the Interim Electoral Commission. Registration enabled the parties to

organize campaigns and to hold political rallies. The presidential and parliamentary elections were to be held in November and December 1992 respectively.

58. The new Constitution was to enter into force on 7 January 1993, the date on which the Fourth Republic would come into being. That Constitution contained extensive provisions on the enjoyment without discrimination of all the fundamental rights enshrined in the Universal Declaration of Human Rights, as well as in the Covenants and other human rights instruments. In addition, a review process was now under way designed to bring all Ghanaian law into line with the provisions of the new Constitution; where there were any gaps, the first parliament of the Fourth Republic would introduce the necessary legislation. The Committee's comments would be taken into account in that connection. The next report of Ghana would include the relevant provisions - constitutional, legislative or administrative - concerning the elimination of racial discrimination in all its forms.

59. In addition, the 1992 Political Parties Law prohibited the formation of political parties on an ethnic, regional or religious basis. Such parties could be registered only if their statutes and regulations were in conformity with the principles of the new Constitution.

60. Article 17.2 of the Constitution laid down that no one should be discriminated against on grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status. Chapter 5 of that instrument contained human rights provisions designed to guarantee equality and protection from discrimination. One of the guiding principles of chapter 6 was the promotion of just and reasonable access by all citizens to public services.

61. Under section 9 of the Political Parties Law, the Interim Electoral Commission could refuse to register a party unless it was represented in all the regions of Ghana and organized in at least two thirds of the districts in every region. In addition, it could refuse to register a party if its name, emblem or any other symbol had an ethnic, regional or religious connotation, or gave the impression that its activities were confined to one part of Ghana.

62. A law had recently been enacted setting up a National Media Commission which would be responsible for ensuring that both the private and public media were free, independent and accountable, in the belief that a vigilant and responsible press was a prerequisite for the success of democracy.

63. In December 1991 the Government of the Provisional and National Defence Council had amnestied some 1,000 prisoners. In a spirit of reconciliation, the State security agencies had been instructed to review the cases of all persons in custody on grounds of offences against State security. Subsequently, charges against 17 prisoners had been dropped.

64. He assured the Committee that all forms of racial discrimination as defined in article 1 of the Convention had always been repudiated by the people and Governments of Ghana. Nevertheless, a change in circumstances could well trigger such discrimination anywhere in the world, and accordingly Ghana remained vigilant. The country had condemned oppression based on race, wherever it existed, in the appropriate United Nations forums, and had called for strong measures against countries which practised racial discrimination. Ghana's opposition to apartheid was well known. In recent months, Mr. Nelson Mandela and Mr. Oliver Tambo, current and past Presidents of the African National Congress (ANC), had visited Ghana. The Government had also recently played host to Mr. Makwetu, President of the Pan-Africanist Congress (PAC), as well as to President Nujoma of Namibia.

65. In conclusion, he assured the Committee that his delegation would see to it that the next report was more detailed and informative and that his Government would take careful note of the Committee's observations when preparing it.

66. Mr. LECHUGA HEVIA, speaking as country rapporteur for Ghana, thanked the Ghanaian delegation for having supplied additional information, which should help the Committee to form a clearer picture of the situation in Ghana and of the way the provisions of the Convention were being implemented. He noted that the information contained in the tenth and eleventh periodic reports of Ghana (CERD/C/197/Add.7) was now outdated. Ghana had in fact acquired a new Constitution, which would enter into force in January 1993. In that connection, it would be useful for the Committee to be provided with the text. Ghana was also planning to hold presidential and parliamentary elections, and was returning to a multi-party system, on which it was to be congratulated.

67. The report listed certain laws, such as the 1957 Avoidance of Discrimination Act, which prohibited organizations from engaging in tribal, regional, racial or religious propaganda to the detriment of any other

community or from securing the election of persons on account of their tribal, regional or religious affiliations or for other purposes connected therewith, and which made it an offence for any organization whose membership was substantially restricted to any one community to have as one of its objects the exposure of any other organization to hatred, contempt or ridicule on account of its community or religion; the same Act also made it an offence for any political party to use, or permit to be used, any symbol or name which could be identified with any particular community or religious faith. The report also referred to Provisional National Defence Council Establishment Proclamation Law No. 42 of 1982, which required that respect for fundamental human rights and for the dignity of the human person were to be cultivated among all sections of society, and that national integration was to be encouraged, while discrimination on grounds of ethnic origin was to be discouraged. That being said, however, the report did not state whether those laws were still in force or whether they were to be amended, and it would be useful to have information on that point.

68. The report also indicated that the provisions of the Convention had been incorporated into local laws, without specifying whether they had been incorporated into legislation generally. It further referred to a 1984 law on prohibited organizations which appeared to be confined to the Bawku district, and he would like to know whether that law was also applicable in the rest of the country.

69. With regard to the struggle against apartheid in South Africa, it should be noted that Ghana's attitude had always been in keeping with both the letter and spirit of the Convention.

70. On education, an act of 1961 stipulated that no person should be refused admission to a school as a result of his religion, nationality, race or language, or that of his parents, and laid down that education was to be free of charge.

71. He noted, however, that the report was not in conformity with the Committee's guidelines. For example, it gave no information on the demographic composition of the population or on the latest census. The last report submitted by Ghana to the Committee on the Elimination of Discrimination Against Women had contained more recent data on the composition of the population, the number of languages spoken in the country, the demographic

composition of the various ethnic groups, and the legal system in Ghana, as well as on the various kinds of courts that existed. That report had indicated that women did not enjoy the same opportunities as men, which would not appear to constitute racial discrimination, since the same situation prevailed in all the ethnic groups in the country. It would seem that Ghana was currently planning to amend its civil and administrative codes, as well as those provisions of the Penal Code which discriminated against women. It would be useful if Ghana could inform the Committee in its next report of any legislative developments affecting the status of women.

72. The Committee would also be glad to have data on infant mortality according to ethnic group, as well as data on employment and on education programmes. In that connection, a Ghanaian paper, the People's Daily Graphic, had reported on 11 June 1992 that the Minister of Education had made arrangements for papers in rural areas to be published in 15 local languages as part of an adult literacy programme, and that 3 libraries had been set up in each district to enable persons who had completed adult literacy courses to continue their education. The paper had also referred to ethnic conflicts in the north of the country, and he would appreciate information on that subject.

73. In conclusion, he considered that, in view of the changes that had taken place in the country, the Committee should be provided with fuller information to enable it to make specific recommendations.

74. Mr. YUTZIS thanked the Ghanaian delegation for its introduction to his country's report. The further details supplied were evidence of the Government's willingness to continue its dialogue with the Committee.

75. He had gathered from the report and from other sources of information, such as the press, that Ghana was endeavouring to acquire a national identity. In paragraph 6, for example, it was stated that national integration was to be encouraged. In addition, there were laws on the subject, such as the 1984 Prohibited Organizations Law, which banned the formation of any association or organization based on ethnic or tribal feelings. In fact, ethnic feelings were closely linked to a country's historical identity. He would therefore like to know what steps the Government was taking to promote the nation's historical identity while at the same time repressing ethnic feelings.

76. Concerning implementation of the provisions of article 5 of the Convention, he would like to know whether the right to work was recognized in Ghana's Constitution.

77. Mr. WOLFRUM said he would like the information provided by the Ghanaian delegation about the different linguistic groups to be incorporated in Ghana's next written report. He would also like to have details of the constitutional provisions relating to the incorporation of international instruments into domestic law. He too believed that it would have been useful for the Committee to have had the text of the new Constitution before it.

78. He noted that there were several references in the report to "districts", and asked what the relations were between those districts - which appeared to enjoy a certain degree of autonomy - and the Ghanaian Government.

79. Lastly, he would appreciate it if in its next report Ghana could supply information on any amendments which were to be introduced in Ghanaian legislation.

80. Mr. de GOUTTES inquired whether it might not be possible for the Ghanaian authorities to enact legislation enabling the Convention to be directly invoked in the courts.

81. He noted that the Prohibited Organizations Law banned the formation of any association or organization based on ethnic or tribal feelings, and that the Avoidance of Discrimination Act went further in prohibiting political parties from using a symbol or name which might be identified with any particular community or religious faith. He gathered from the explanations given by the Ghanaian delegation that those provisions would be incorporated in the new legislation: he was not sure that they did not go too far. In that connection, he reminded members that when the Committee had considered the report of Bulgaria in 1991, it had questioned whether efforts to combat racial discrimination ought to extend to banning any party with ethnic connotations even if it had no racist objectives and no intent to discriminate, and had expressed reservations in that regard. He invited the Ghanaian delegation to take that comment into account.

82. In conclusion, he hoped that the observations and suggestions made by members of the Committee would help the Ghanaian authorities to bring the reform of their legislation to a successful conclusion.

83. Mr. LAMPTEY also noted that the report of Ghana was not fully in conformity with the Committee's guidelines, and considered that the whole introductory part of the statement by the Ghanaian delegation should have appeared in a "core" document, which could serve as reference material for all United Nations bodies. He proposed that the Ghanaian delegation should submit such a document, if possible, before his country's next report.

84. It was noteworthy that the Convention had formed part of Ghanaian legislation since 1966, and that Ghana was the second country to have ratified that instrument. Furthermore, Ghana had passed the Avoidance of Discrimination Act in 1957, and the Prohibited Organizations Law in 1984, to give effect to article 4 of the Convention. However, that was not enough. He therefore proposed that the Ghanaian Government should consider, as part of its legislative reforms, the adoption of a new law which would be fully in conformity with the provisions of article 4.

85. He pointed out that a chapter of the new Constitution concerned the Office of the Commissioner on human rights and the administration of justice, and suggested that Ghana should entrust the Commissioner with the task of monitoring implementation of the Convention.

86. Mr. BANTON drew attention to Ghana's long tradition in the field of social research, notably in regard to the collection of data relating to racial discrimination, which should assist it in its campaign against discrimination.

87. The CHAIRMAN invited members of the Committee to transmit their comments and suggestions on the draft final conclusions concerning Costa Rica, Bangladesh and Greece directly to the country rapporteurs for those countries, namely, Mr. de Gouttes, Mr. Yutzis and Mr. Wolfrum respectively, in order to avoid reopening the debate. He hoped that those documents would be adopted by consensus.

The meeting rose at 6 p.m.

PROVISIONAL
For participants only

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-first session

PROVISIONAL SUMMARY RECORD OF THE 944th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 6 August 1992, at 10 a.m.

Chairman: Mr. VALENCIA RODRIGUEZ

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Fifth periodic report of Colombia

Corrections to this record should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

GE.92-16932/4760B

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Tenth and eleventh periodic reports of Ghana (CERD/C/197/Add.7) (continued)

At the invitation of the Chairman, Mr. Amoo-Gottfried (Ghana) took a place at the Committee table.

Mr. AMOO-GOTTFRIED (Ghana), replying to questions asked during the discussion of his country's periodic reports, said that one issue raised by the country rapporteur had been the fate of legislation relating to the Convention in the light of the new Constitution about to enter into force. In fact, the laws concerned would remain on the statute book in so far as they were not incompatible with the provisions of the new Constitution, but where necessary the legislation against discrimination would be strengthened. Under the new Constitution, the judiciary would remain unchanged, consisting of the superior courts of judicature and such lower courts or tribunals as Parliament might establish.

With regard to the request for information on the infant mortality rate in Ghana, the rate had dropped significantly during the last decade, but he could not unfortunately provide any statistics immediately.

With regard to discrimination against women, it had been the policy of successive Governments to promote gender equality in Ghana, and women were guaranteed equal rights to training and promotion. His country was one of the few where women enjoyed the same opportunities as their male counterparts; women had served as members of Parliament and as Cabinet Ministers, and had distinguished themselves as diplomats, accountants, lawyers, economists and in other professions.

He confirmed the newspaper report referred to by the country rapporteur which stated that there was currently only one newspaper published in a local language. There were, however, plans to publish it in three other local languages.

The country rapporteur had also referred to recent disturbances in the northern part of Ghana. However, what had been described by the press as an ethnic conflict had in fact been a conflict between two groups of people over land rights. The latest disturbance had also involved a dispute over the

right to appoint a chief in the area. When such disturbances occurred, the Government took steps to maintain law and order and to mediate between the rival groups.

In connection with article 4, paragraph 16, the country rapporteur had drawn attention to the Prohibited Organizations (Bawku District) Law of 1984 and had inquired whether that Law referred specifically to that district or was applicable throughout the country. In fact, the Law had been enacted as a result of disturbances in the District caused by ethnic animosities, but it had national scope, since there was a possibility of such incidents occurring in other areas in the country. Mr. Yutzis had asked how such a law could assist in the realization of national integration. The answer was that Ghana was not a country with pervasive ethnic differentiation or difficulties. Although its people took pride in their national unity, experience had shown that relatively small groups with extreme ethnic views could create situations resulting in unnecessary conflict, and it was for that reason that the Law had been enacted. Ghana was proud of the diversity of its people, and the cultural traditions of the various groups had been maintained and supported. The prohibition therefore related to groupings with negative and discriminatory tendencies, and was therefore in line with the objectives of the Convention.

Referring to Mr. Yutzis' question about the existence of a right to work, he said that chapter 5, paragraph 24, of the new Constitution stated that "every person has the right to work under satisfactory, safe and healthy conditions and shall receive equal pay for equal work without distinction of any kind".

Regarding Mr. Wolfrum's question on the demographic composition of Ghana and its linguistic groups, he said that the country's statistical regulations did not permit the compilation of such data, although there was a breakdown of population by regions and towns. However, such data could not be relied upon for the purpose of determining ethnicity. That said, he had noted the comments of Mr. Banton on the usefulness of sociological research in that area.

In connection with Mr. Wolfrum's inquiry concerning the role of international treaties in relation to the Constitution, he said that the Constitution, which was the supreme law in Ghana, enjoined the Government in its dealings with other nations to promote and protect the interests of the State; to seek the establishment of a just and equitable international order;

to promote respect for international law, treaty obligations and the settlement of international disputes by peaceful means; and to adhere to the principles enshrined in such multilateral instruments as the Charter of the United Nations and the Charter of the Organization of African Unity.

Since the Convention had been incorporated into Ghanaian law by an Act of Parliament in 1966, it remained valid under the new Constitution.

Mr. Wolfrum had also asked about the relationship between the district and the national political and legal framework. Ghana was a centralized State with 10 regions and 110 districts which, although not comprising a federation, were decentralized to a certain degree. The number of districts would be increased under the new arrangements and they would assume certain functions in order to achieve the country's objectives of participatory democracy. He would recommend to his Government that copies of the new Constitution and laws were made available as accompanying material to his country's next report.

In reply to Mr. de Gouttes, he said that it would be possible under the new Constitution to invoke a provision of the Convention in the courts, but where that provision was not self-executing, a specific enactment would be required.

Mr. de Gouttes had also asked whether the prohibition of symbols and emblems denoting ethnic, regional, religious or other sectional connotations was not unduly rigorous. It should be pointed out that it was the wish of neither the Government nor the people of Ghana to eliminate any ethnic differences in society by decree. However, if events in Yugoslavia, Liberia, Somalia and other countries provided a lesson, it was that individuals could take political advantage of ethnic particularities to fan the flames of conflicts that might destroy a nation and a people. Cultural associations, development societies and friendship groups based on ethnicity were not prohibited but indeed encouraged.

In conclusion, he said that the suggestions made by Mr. Lamptey, himself a Ghanaian, would be duly brought to the attention of the Government.

Mr. SONG Shuhua said it was evident from the reports that the Ghanaian Government attached great importance to fostering its people's culture and traditions in changing social conditions. He asked what proportion of Ghana's large population was fully conversant with English, and more specifically whether interpretation was provided in the courts into and out of other languages.

Mr. DIACONU said he did not understand why the Ghanaian Government appeared so anxious to discourage political parties with an ethnic or religious basis. In Europe, for example, Christian Democratic parties were not uncommon, and in his own country, Romania, in particular, ethnically-based parties were an accepted fact. To prohibit such parties might itself create tensions.

Mr. SHAHI asked whether the adherents of the various religions practised in Ghana were distributed throughout the country or concentrated in specific areas.

Mr. AMOO-GOTTFRIED (Ghana) said in reply to Mr. Song Shuhua that less than 50 per cent of the population could be said to speak English well, and that, while the official language of court proceedings was English, interpretation was provided where necessary.

He appreciated Mr. Diaconu's comment, but pointed out that Ghana was concerned to preserve a unified society in the conditions of ethnic diversity created by boundaries inherited from the colonial Powers, which often divided peoples of the same ethnic background.

In answer to Mr. Shahi's question, he said that, although Christians and Muslims were to be found throughout the country, the latter predominated in its northern part.

Mr. LAMPTEY said that in Ghana there was no one dominant ethnic group, and ethnic diversity was a characteristic feature of the Ghanaian Government, the armed forces and society at large. For that reason, there was no need for ethnic quotas in Government. It should be pointed out that the new Constitution, adopted by referendum, had been drafted by people from every ethnic background.

Mr. Amoo-Gottfried (Ghana) withdrew.

Third and fourth periodic reports of Maldives (CERD/C/203/Add.1)

The CHAIRMAN said that, unfortunately, no representative from Maldives was able to be present for the Committee's consideration of the report.

Mrs. SADIQ ALI, country rapporteur, said it was to be regretted that the report had again not been drafted in accordance with the Committee's guidelines, although attention had been drawn to the matter during the consideration of the previous reports in 1989. In particular, the then country rapporteur had recommended that the Committee should draw the

attention of the Government of Maldives to the information expected on articles 2, 4, 5, 6 and 7 of the Convention, as well as to the need to attach the text of laws where appropriate.

The report reiterated that Maldives was not obliged to give effect to the Convention because it had a homogeneous population and that no specific legislation was required to implement the provisions of the Convention. It was a misconception that, because people were of the same ethnic origin, there was no need to give effect to the Convention. All States parties to the Convention were expected in their periodic reports to explain what measures had been taken concerning its implementation, an obligation set forth in article 9 of the Convention.

It should also be pointed out that the provisions of article 4 regarding the introduction of specific legislation making racial discrimination punishable by law were not merely intended as guidance for States parties where racial discrimination existed, but were also designed to prevent any recrudescence of the phenomenon.

Maldives had experienced an abortive coup inspired by mercenaries from a neighbouring country. It had foreign experts working in its territory, and tourists were likely to increase. Those were additional reasons why it should implement the Convention in full.

It was possible that, in the absence of a representative of Maldives during the consideration of the last periodic report, the Government might not have been apprised of the comments made by the Committee. If the Government was still encountering difficulties in the preparation of its reports, it might request the assistance of the Centre for Human Rights through its advisory services.

The reporting process assumed that there was a need for constructive dialogue between the State concerned, on the one hand, and the expert body, on the other, and to that end, it was essential for a representative of the State party to present its report to the Committee. The Committee therefore hoped that Maldives, although a small country, would respond to that request.

Mr. ABOUL-NASR said the fact that Maldives had no permanent mission in Geneva was another indication that it would be expedient for sessions of the Committee to be held in New York. The Secretariat should contact the Government of Maldives to recommend that it avail itself of the advisory services of the Centre for Human Rights in compiling future reports.

Mr. YUTZIS said that a country's size and population were immaterial from the standpoint of fulfilment of its obligations under international instruments. It was similarly of no consequence whether or not a State had a permanent mission in Geneva. The basic issue that concerned the Committee was the political will of a State to comply with its obligations, financial and otherwise. When communication was established with Maldives, it was important to stress the commitments it had assumed in signing the Convention.

Mr. de GOUTTES supported the views expressed by the country rapporteur. He welcomed the fact that Maldives had submitted a report, but regretted that it did not conform to the Committee's guidelines. The report stated that there was "no form of discrimination" in Maldives and that therefore "no specific legislation" had been enacted to implement the provisions of the Convention. The Committee's conclusions should emphasize that, under article 4 of the Convention, States parties had an obligation to enact legislation to condemn and prevent discrimination.

Mr. ABOUL-NASR disagreed with Mr. Yutzis that it was of little significance whether or not a country had a permanent mission in Geneva. The Committee's aim was to use its experience to help countries, and to promote the discussion and solution of their problems.

Mr. YUTZIS said that some small countries applied for assistance from the advisory services of the Centre for Human Rights in drafting their reports. A recommendation that Maldives should avail itself of such assistance should be included in the Committee's conclusions.

Fifth periodic report of Colombia (CERD/C/191/Add.1)

At the invitation of the Chairman, Mr. Eduardo, Mrs. Galvis and Mr. Mestre Sarmiento (Colombia) took places at the Committee table.

Mr. MESTRE SARMIENTO (Colombia) said that, as stated in the introduction to the report, the election of the Constituent Assembly had united the various forces in Colombian society and paved the way for democratic reconciliation. The safeguarding of human rights and the protection of minorities were uppermost in the minds of decision makers. Colombia had many minorities, mainly due to the flow of immigrants into the country over a long period, which had resulted in the creation of a multiracial society. The report stressed the importance attached to defending the cultural inheritance of all indigenous communities, and to their contribution to the national culture. It also described the innovative

efforts made by the Government to protect the Amazon Basin, which it believed should be viewed as part of the common heritage of mankind, and the environment. Since the submission of the report, Decree No. 436 of 10 March 1992 had established the National Indigenous Policy Council, and Decree No. 716 of 28 April 1992, the National Committee on Indigenous Rights to coordinate the protection and promotion of the human rights of indigenous communities.

Mrs. GALVIS (Colombia) said that the rights of minorities in Colombia were protected by a number of articles in the Constitution. Article 5, for example, recognized, without discrimination, the primacy of the inalienable rights of the person, and recognized that the family, as the basic institution of society, was entitled to protection. Article 7 recognized and protected the ethnic and cultural diversity of the Colombian nation. Under article 8, the State and the individual alike had an obligation to protect the country's cultural and natural heritage. Article 10 provided that, while Spanish was the country's official language, the languages and dialects of the various ethnic groups also had official status within their respective territories. Teaching in communities which spoke such languages and dialects was required to be bilingual.

Article 43, which provided that men and women should enjoy equal rights and opportunities, was applicable also to indigenous minorities. Under article 286, the indigenous territories were described as autonomous entities on the same footing as other territorial entities of the country. They enjoyed the right to manage their own interests and to administer their own resources, and were entitled to self-government by their chosen authorities. Finally, article 246 provided that such indigenous authorities could exercise legal jurisdiction within the limits of their territories, provided that such jurisdiction did not conflict with the Constitution or the laws of the Republic. Legislation was to be adopted to ensure that such jurisdiction was brought into line with the national judicial system.

Mr. EDUARDO (Colombia) said that in pursuance of the constitutional provisions just referred to, a National Indigenous Policy Council had been set up, consisting of three senators and four representatives elected by the indigenous communities. It helped to promote the interests of those communities, notably by defining priority areas for social welfare assistance, as provided for under article 357 of the Constitution.

The Council was currently studying draft legislation on the indigenous communities, which was to be submitted to Congress. That legislation provided for a National Committee on Indigenous Rights, a standing body whose function would be to coordinate activities for the prevention of any violations of the rights of indigenous peoples, whether enshrined in the Constitution or in covenants and treaties signed and ratified by Colombia.

The Government was currently monitoring the environmental impact of construction and prospecting operations in various parts of the country, including indigenous areas. Two such projects, one in Chocó and another at the airport of Punto Mayo, had been halted because of the risk of damage to the environment. The National Committee for Indigenous Linguistics, referred to in paragraph 45 of the report, had assisted in the training of 20 language experts, 15 of whom were indigenous. Efforts were being made to adapt school curricula to the needs of indigenous communities, and as many as 30 regional projects had been prepared. Under the "Alvaro Ulcué" fellowship fund, referred to in paragraph 47, 120 indigenous students had received grants for higher education. In general, the Government was constantly endeavouring to make authorities at all levels more aware of the rights of indigenous peoples.

He assured the Committee that Colombia had the political will to apply policies which would implement the provisions of the Convention, so that those provisions would become part of the everyday life of the people. It believed that, despite the difficulties it was facing, it had succeeded in creating a society in which minorities and indigenous peoples played their full part.

Mr. WOLFRUM, country rapporteur, said he felt some hesitation, in the light of Colombia's internal problems, in judging its record in complying with the Convention by the same yardstick as that applied to other States, such as, for example, Greece or Belgium. He congratulated the Government of Colombia on the regularity with which it had submitted its reports, and on the information they contained.

While the report (CERD/C/191/Add.1) was basically drafted in accordance with the Committee's guidelines, it did not provide details on the demographic composition of the population. While data was given concerning indigenous communities, no information was provided about other ethnic minority groups, and the Committee would be glad to be told more about such groups, and the extent to which they were integrated into Colombian society. The report was to some degree supplemented by Colombia's third periodic report on

implementation of the International Covenant on Civil and Political Rights, as well as by the report by the Special Rapporteur on religious intolerance. He recommended that in preparing its next report, Colombia should make use of the newly introduced system of including a "core" text relating to reports under other human rights instruments.

On the subject of the newly elected Constituent Assembly, it was stated in paragraph 7 of the report that the two representatives of the indigenous peoples in the Assembly had "obtained the support of the people in the elections". Did that phrase imply that members of indigenous communities could not be elected without the support of other, non-indigenous citizens?

The report further stated in paragraph 18 that the Convention could now be invoked before the national authorities. He would be interested to know whether there had been any actual cases of the Convention being invoked, and whether there were any court rulings referring to it. The representative of Ghana had recently stated that when his country's new Constitution had been drafted, extensive reference had been made to the Convention, as well as to other human rights instruments; had such reference been made when Colombia's new Constitution had been prepared? Were the international obligations derived from the Convention binding in Colombian law, or could they be overruled by subsequent legislation? At the time the previous report had been submitted, the representative of Colombia had stated that his Government intended to make the declaration referred to in article 14 of the Convention: had it in fact yet done so?

While both the written report and the oral statements had referred frequently to the legal system and to the Government's plans and policies, very few concrete examples had been given of how that system and those policies worked in practice. He regarded that as a major deficiency, particularly in the light of the internal difficulties currently faced by Colombia. Paragraph 20 of the report stated that the Government had reached an agreement on demobilization and disarmament with the Quintin Lame Armed Indigenous Movement, which was the fourth such movement to have decided to "return to civilian life". Could the representatives of Colombia explain what were the objectives of that movement, who were its members, and why it had capitulated: had its demands been met, or had it simply been overpowered? Did any other similar militant groups still exist, and what was the prospect of their returning to civilian life and democracy?

He would like to reiterate the question raised at the time of consideration of the fourth periodic report, namely, what the outcome had been of the commission of inquiry set up to investigate three incidents in the Chocó region in 1987 concerning mining rights. That question was of particular interest to the Committee, since the incidents had led to the killing of three Arhuaco leaders. The Government's silence would seem to imply that it had no great interest in shedding light on the matter.

Paragraph 23 of the report indicated that a number of measures had been taken to recognize the rights of the indigenous peoples and to assist them with specific policies, but again no details were given: more specific information would have been appreciated. Paragraph 26 referred to the setting up of "indigenous reservations": that term had already given rise to some unease among members of the Committee, and he would like to know more about the status of such reservations, and the system of land ownership operating in them. As he understood it, the Colombian representative had said that, in his Government's view, the Amazon region should be regarded as part of the common heritage of mankind. That would be a revolutionary approach in terms of international law, and he wondered whether it was shared by other countries in the Amazon region. It was a view which, incidentally, he himself wholeheartedly endorsed.

Paragraph 32 stated that indigenous communities were guaranteed the right to use renewable natural resources on their lands: who then had the right to exploit non-renewable resources, especially hydrocarbons? On the assumption that non-renewable resources were the property of the State, which could grant concessions for exploitation, would the indigenous populations benefit when such concessions were granted in areas where they were owners of the land? Were such lands owned by individuals or by tribes, and in the latter case, how had the tribes been organized to enable them to express their corporate will?

Paragraph 32 of the report also referred to the existence of indigenous inspectors of natural resources: were those inspectors appointed by the indigenous communities or by the State, what were their functions, and what were they intended to achieve? He had some misgivings on the subject, since the representative himself had stated that some projects in the Amazon region had been halted because they were environmentally damaging. Logging should

properly come under an indigenous authority, since timber was a renewable resource. There had been numerous reports at the Rio Conference of environmental contamination and acts of violence in the region, and he would like to know how far the Government had succeeded in putting a stop to them, and whether any compensation had been paid to the Indian people.

He would have appreciated more information about the efforts being made to improve the economic situation of indigenous peoples: for example, were there any statistics on their income and unemployment rate as compared to the rest of the population? What was the chief source of income of such communities? The efforts being made to improve the education of indigenous peoples, referred to in paragraphs 43 to 47, were laudable, if limited, and clearly complied with the requirements of article 1, paragraph 4, and article 2, paragraph 2, of the Convention.

The policy of associating protection of the indigenous population with conservation of the environment (paragraphs 48 to 50) was most promising, although it would be interesting to know more about the "areas for special management", and how such areas differed from reservations. Colombia's report to the Human Rights Committee stated that over the last 4 years, 72 reservations had been set up covering an area of 13 million hectares, with a resident population of 27,000. He would appreciate more information on the status of those reservations, and how the system operated.

Paragraphs 50 to 85 of the report outlined the policy pursued by the Government to improve the legal, economic and social situation of the indigenous communities, and that information had been supplemented orally. Those policies were commendable, but similar projects had been referred to in previous reports and further information would therefore be welcome on progress since 1988.

Specifically, paragraph 50 raised several questions. With reference to subparagraphs (f) and (g) of the section on land and natural resources, did the Government review the title to reservations set up in the colonial period? In subparagraph (a) of the section on State administration, what was meant by "coordinating bodies"? In subparagraph (c) of the section on the land and natural resources programme, what was meant by the statement that some communities had "lost their land"? To whom and why had it been lost,

and what action had the Government taken? What was the infant mortality rate and what was the life expectancy of members of the indigenous communities compared with that of the rest of the population?

With reference to paragraph 63, it was not clear whether the education of indigenous pupils was bilingual, although information provided orally indicated that it was. Colombia's report to the Human Rights Committee was more specific in that regard, stating that Decrees No. 88 of 1976 and 1142 of 1978 recognized ethnic pluralism and established the right of indigenous communities to a bilingual and bicultural education. A 1984 resolution called for curricula to be based on the principles of ethnic development and ethnic education and proposed that indigenous communities should determine the content of their own curricula. Had those Decrees and that resolution been properly implemented, and did bilingualism apply only to indigenous communities or to the rest of the population as well?

On the subject of the implementation of article 3 of the Convention, the Government of Colombia reiterated that it had no political, diplomatic, military, cultural or sporting links with the Government of South Africa, a statement which had never been questioned in the Committee.

The brief account of Colombia's implementation of article 4 of the Convention (paragraphs 92 to 95) could not be deemed to reflect full implementation of article 4. He reiterated the Committee's constant concern and plea that legislation should be enacted in conformity with that article.

With reference to article 5 of the Convention, the report contained information on the implementation of the right to equal treatment before the tribunals and the right to personal safety and to take part in elections, but did not cover all aspects of article 5. He drew particular attention to the right to personal safety. He did not wish to overemphasize the point because, as the representative of Colombia had said, the country was in a state of transition and there clearly was the political will to deal with the serious difficulties facing it and indeed to enact legislation. He would, however, have appreciated more information on practical measures taken or planned, for instance, against military or paramilitary groups. In general, that section of the report was too vague and he reiterated the request made during the discussion of Colombia's initial report that more information should be

provided on the enjoyment of political and cultural rights by the indigenous peoples and other minority ethnic groups, with comparative figures on education, per capita income, housing, medical care and representation. He would like to know how the Constituent Assembly was elected and what means were available to indigenous communities to secure representation.

The measures to implement article 6 that were reported in paragraphs 114 to 123 were impressive, particularly the availability of a telephone line enabling individuals to report, free of charge, any threat to or restriction of the right to life or freedom of a Colombian citizen. He wished to know to what extent citizens availed themselves of such facilities.

Mr. BANTON said that invasions by colonists of the land of the indigenous peoples had been reported from many parts. Would it be unfair to conclude that the Government did not have the power to prevent them? In regions where the central Government was weak, was it not particularly important to secure lines of communication with the representatives of the local people? Were the security forces instructed in the importance of working with organizations which sought to protect human rights and historic land and water rights? By organizations he meant any kind of organization, whether formally registered or not, including traditional village organizations.

The fifth report described policies designed in the capital, but the impression it conveyed conflicted with accounts of the present situation in many rural areas. For example, the Guaviare Indians in eastern Colombia were now distinguished less by their ethnicity than by their position as a depressed class of poor agricultural workers in a society dominated by whites. With the spread of the market economy they had been drawn into economic relations without understanding the rules that were meant to govern them or how they could best protect themselves. Their traditional knowledge, institutions and experience were now no longer valid or meaningful. The Government's report did not acknowledge that reality.

Reports on the situation on the Pacific coast indicated that the rain forest was being destroyed by lumbering and mining companies, with, apparently, little restraint from a Government that had made major concessions in the development plan, PLAIDECOP, in order to attract outside investment.

Land rights were being infringed, while the changes brought disease, contamination and violence to the Indian and black communities alike. Colombia should report on the actual payment of compensation to the local people for the damage to their environment, not just about laws which might or might not be observed in practice.

The Human Rights Committee had asked for further information about measures to protect rights under article 27 of the International Covenant on Civil and Political Rights, and it would be useful if Colombia's replies could be reproduced in its next report to the Committee on the Elimination of Racial Discrimination. In addition, he wished to know whether the indigenous peoples were required to register births and deaths. Where figures were not available, estimates from authoritative sources would be welcome. Figures on elections, for example, would be useful.

With reference to paragraphs 121 to 123 of the report, it would be helpful to have an estimate of the effectiveness of those measures in different regions. Details of incidents in which the perpetrators of violence towards indigenous people had actually been convicted, and the punishments imposed, would be welcome, as would details of action actually taken against lumbering and mining companies which had failed to comply with the official conditions for their operations. Like Mr. Wolfrum, he understood the terrible problems with which the Government had to contend, and candid appreciations of the actual effectiveness of the measures pursued would therefore be respected.

Mr. de GOUTTES welcomed the additional information provided orally, especially on the new constitutional Charter which had entered into force in July 1992. As Mr. Wolfrum had said, Colombia's internal problems made it very difficult to consider the situation in Colombia within the sole perspective of the Convention. He wished to draw attention to two particular shortcomings in the report. One was the failure to pass legislation to implement article 4 of the Convention. The Committee had often observed similar shortcomings in the reports of other States parties and had always stressed the importance of legal anti-discrimination provisions if only for preventive purposes. The legal provisions referred to in paragraph 105 of the report in connection with article 5 of the Convention were not specifically relevant to racial discrimination.

The report was informative but on the whole too legalistic and not sufficiently specific. Practical information was required on human rights violations of all kinds, not just against indigenous peoples but against any other underprivileged sectors of the population, and concerning acts of violence perpetrated, for instance, by military or paramilitary groups. Abductions of children by death squads, violence against rural dwellers in guerrilla areas and other violations had been reported. He drew attention to two highly informative reports, the most recent report of Amnesty International, and a report produced by the Attorney-General of Colombia.

Mr. DIACONU said that the difficulties experienced by the Colombian Government inevitably affected the measures it had taken or would take and the results it could expect. The report was to be commended for its comprehensive coverage of implementation of the Convention in regard to the rights of indigenous peoples. It failed, however, to refer to other parts of the country and he would appreciate further information on the origin of the population in those areas.

He had been surprised to find no reference to any legal instruments specifically prohibiting discrimination on grounds of race, ethnic origin, etc. Paragraph 18 of the report stated that the provisions of the Convention "might" be invoked before the national authorities which in turn "might" enforce it directly, which equally implied that it or they might not. There was no way of ensuring the implementation of the Convention if there were no legally binding stipulation to that effect.

He had doubts about the accuracy of the statement in paragraph 92 that violations of the human rights of any individual were punishable offences under Colombian legislation, since it was improbable that all violations were punishable offences in any country. He agreed with previous speakers that the explanations given about the implementation of article 4 did not suffice, and hoped that the next report would provide more specific information.

Mr. FERRERO COSTA said it was clear that, despite its many problems, the Government of Colombia had the political will to implement the Convention. It was to be commended for submitting its periodic reports on time and for its willingness to enter into a dialogue with the Committee. It was true that the report now before the Committee focused on the indigenous

peoples to the exclusion of other groups, but a commendable effort had been made to answer the questions raised during the consideration of its previous report.

He agreed that the complex internal situation of Colombia made it difficult to examine Colombia's implemention of the Convention in isolation. The two major problems of terrorism and subversion and the fight against drug trafficking were also issues of concern to other human rights treaty monitoring bodies. Referring to the records of the previous Committee session at which Colombia's reports, and specifically its internal problems, had been discussed, he recalled the Committee's commendation of the Colombian delegation's frank acknowledgement of its difficulties and shortcomings. He endorsed Mr. Wolfrum's proposal that Colombia should prepare a core document providing general information of interest to all human rights treaty monitoring bodies.

It was clear that the Colombian Government still needed to take further steps to implement the Convention fully. For example, Colombia's internal difficulties should not prevent it from adopting specific legislation with regard to article 4.

With regard to access to the judiciary by the indigenous population, the Government appeared to be aware of the difficulties of access by indigenous peoples.

The comment by Mr. Wolfrum on the representative of Colombia's statement that his Government regarded the Amazon Basin as part of the common heritage of mankind called for some clarification. He was sure that there had been no intention of suggesting that the Amazon Basin might become an area under international jurisdiction, and there was certainly no joint or individual proposal to that effect. The statement was merely one of goodwill emphasizing the importance of the Amazon Basin to humanity and the world at large from an environmental point of view.

Mr. SHAHI referred to Colombia's policy of granting land to indigenous communities, as reported in paragraphs 28 and 50 of the report, and hoped that the next report would specify the exact number of hectares granted to indigenous communities which had no land or insufficient land. He would also welcome further information on the black population and its full

enjoyment of civil rights. Referring to Mr. Banton's statement, he wished to know what was the extent of invasions by colonists, such as miners or developers, of the land of indigenous peoples and what action the Government was taking to stop them. If those reports were true, the indigenous population was not being protected. In the reservations set up, could the indigenous peoples hold land individually or only on the basis of communal ownership?

Finally, with regard to the comprehensive, complex machinery set up to implement article 6 of the Convention, he wished to know how many cases had been brought to those judicial authorities and settled by them.

The meeting rose at 1.05 p.m.

(74)

PROVISIONAL
For participants only

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-first session

PROVISIONAL SUMMARY RECORD OF THE 945th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 6 August 1992, at 3 p.m.

Chairman: Mr. VALENCIA RODRIGUEZ

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Draft letter to the Chairman of the Commission on Human Rights concerning the situation in former Yugoslavia

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (item 7) (continued)

Fifth periodic report of Colombia (CERD/C/191/Add.1) (continued)

1. At the invitation of the Chairman, Mr. Mestre Sarmiento and Mrs. Galvis (Colombia) took places at the Committee table.

2. Mr. van BOVEN said he wished first of all to welcome the Colombian Government's participation in the activities of human rights bodies. For example, the Government had on several occasions, invited working groups, such as the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights, and rapporteurs such as the Special Rapporteur of the Commission on Human Rights on the question of torture, to visit Colombia. It was all the more regrettable that those various efforts had been so unproductive, particularly with regard to protection of the right to life and security of person.

3. It could be seen from a reading of the report under consideration (CERD/C/191/Add.1) that indigenous groups, like the rest of the population, suffered from the acts of violence perpetrated in Colombia. He would like to know to what extent the indigenous populations were affected by the violence, whether they were its sole victims, or whether they also participated in it. The report also contained little information on the black population and immigrants.

4. He noted with satisfaction that ecological issues were taken into consideration in the implementation of certain projects and that other projects which were harmful to the environment had not been carried out.

5. It was also stated, in paragraph 21 of the report under consideration, that indigenous groups were scattered throughout 25 per cent of Colombian territory and had their own social and cultural world, while paragraph 29 referred to reservations (resguardos); it was permissible to ask whether the necessary conclusion was that the reservations occupied 25 per cent of Colombian territory or whether there were concentrations of indigenous people in other regions of the country. He considered that the question of reservations was a specific issue which should perhaps be considered jointly with the Working Group on Indigenous Populations of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities.

6. Mention should also be made of a contradiction between paragraph 12 of the report, which stated that Colombia had acceded to ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and that it had incorporated that instrument in its domestic legislation, and paragraph 56, where it was stated that the Congress of the Republic would undertake to adopt and ratify that Convention. He would welcome clarification on that issue.

7. He also noted that article 4 of the Convention was not being implemented in the requisite fashion, since domestic legislation in that regard was inadequate in respect of the obligations undertaken under the provisions of that article.

8. Concerning the implementation of article 5 of the Convention, he noted that the information contained in the report related basically to civil and political rights, and scarcely at all to economic, social and cultural rights. It was to be hoped that the next report from Colombia would contain more information on the exercise of the latter rights.

9. With reference to article 6 of the Convention, he noted that the Colombian Government had given little information about the recourses available to the victims of discrimination for obtaining compensation; it would be desirable if the Colombian authorities were to furnish more details in that respect in their next report.

10. In conclusion, he expressed the hope that Colombia would decide in the near future to make the declaration provided for in article 14 of the Convention.

11. Mr. ABOUL-NASR, referring to paragraph 24 of the report under consideration, said that the distinction made between the State, the indigenous peoples and society was disturbing. The indigenous population was in fact part of society and could not be dissociated from it.

12. He considered that, contrary to what was stated in paragraph 48 of the report, the policy for the protection of the rights of the indigenous peoples should be separated from the measures taken for the conservation and preservation of the environment. Indigenous persons were human beings who had rights and not a disappearing species whose survival was closely linked to protection of the environment.

13. Mr. MESTRE SARMIENTO (Colombia) thanked the members of the Committee for the interest they had shown in the report under consideration and in the situation in Colombia.

14. Before replying to the questions asked by members of the Committee, he wished to present some explanations regarding certain comments they had made. First of all, the report itself was a document which had been prepared just over a year previously by a country which had embarked on an extremely complex political process. The Constituent Assembly responsible for drafting a new Constitution had been democratically elected in 1990. The stakes involved in that process were vital to the country's future, which explained why the authors of the report had stressed that point. He acknowledged, however, that there were gaps in the report, and he would inform the competent authorities in order to enable them to fill in those gaps.

15. Referring to the comments made by Mr. Wolfrum to the effect that, in order to understand the situation in Colombia, it was necessary to take into account the transitional regime in which it now found itself, he regretted that the rapporteur for his country's report had not clarified his idea by stating what transition was involved. He also wished to emphasize that the Colombian authorities had never craved the indulgence of any United Nations body in the consideration of its reports on the grounds of the problems confronting the country. All they wanted was an objective assessment of the situation. Colombia was a democratic and open country which was not afraid to air the problems it faced, such as drugs or violence. There was no perfect democracy, there were only perfectible democracies.

16. With regard to discrimination, he pointed out that that was a concept of the colonial Powers and not of countries such as Colombia which had experienced miscegenation.

17. In connection with the indigenous peoples, it should be recalled that Colombian territory extended over 1 million sq. km, only one third of which belonged to civilization of the Western type. That third was inhabited by 90 per cent of the population. The indigenous groups, which had survived the conquests of the fifteenth, sixteenth and seventeenth centuries, lived in the two enormous basins of the Amazon and the Orinoco. Those regions were difficult of access and the integration of such groups had been the constant concern of the country's authorities. It was not a question of preserving

them or of establishing a discriminatory regime, but of protecting them against exploitation and massive deforestation and of helping them to conserve their habitat and their culture.

18. He also disagreed strongly with the interpretation given by Mr. Wolfrum of his remarks on environmental protection. He recalled that, some years previously, UNESCO had included Cartagena in the heritage of mankind, and it would never have occurred to him that that could be a strategem of the colonial Powers aimed at laying hands on that magnificent city. In fact, the whole planet was the heritage of mankind, and it was up to both the international community and each individual country to endeavour to preserve it. In that connection, the Amazon Basin was undoubtedly of cardinal importance for the climate and the environment, but there was no question of Colombia renouncing its sovereignty or rights, or of its derogating from its international obligations.

19. Referring to the questions raised, and first of all to that of the representation of indigenous inhabitants in the Constituent Assembly, he said it should be pointed out that the two indigenous people who were members of the Constituent Assembly had been appointed during elections in which the entire Colombian population had participated. On the other hand, the representation of indigenous people in Congress derived from a constitutional guarantee. Article 171 of the Constitution stated that the Congress consisted of 100 members elected in the ordinary constituencies and two members elected in the special constituencies by the indigenous communities. Taking into account the change in the status of certain territories in the indigenous regions, which had become departments, the number of indigenous inhabitants in the Chamber of Representatives had increased.

20. Regarding the status of international instruments in domestic law, it should be pointed out that international legal instruments prevailed over domestic legislation and that national laws must comply with international law.

21. In connection with the agreement on demobilization and disarmament signed by the Government and the Quintin Lame Armed Indigenous Movement, and with the question of guerrilla warfare, it should be mentioned that the phenomenon had begun to emerge at the end of the 1950s. By the end of the 1980s there had been six guerrilla groups, the most important of which, in descending order,

had been the Revolutionary Armed Forces of Colombia, the National Liberation Army, the 19 April Movement (M19), the People's National Liberation Army and the Quintin Lame Armed Indigenous Movement. Since assuming power, President Virgilio Barco had pursued a policy of peace which had begun to bear fruit at the end of his term of office with the peace agreement between the Government and the M19 Movement. The Movement had become a political party which was now represented in the Government, in Congress and in the Constituent Assembly and which enjoyed widespread acceptance among the population. Two other movements, the Revolutionary Armed Forces of Colombia and the National Liberation Army, were continuing guerrilla warfare and peace efforts had so far been unsuccessful. Guerrilla activity and violence in Colombia were now linked to the social and economic phenomenon of narcotics.

22. There would seem to have been a marked increase in poppy cultivation in the country, particularly in the Department of Cauca. A cooperation agreement had been signed between the Government and the indigenous communities to combat the phenomenon. The problem of drugs, none the less, went beyond the frontiers of Colombia and was an international problem. No single country, however powerful, could tackle it without the cooperation of the international community and unless there was a special international tribunal with responsibility for trying cases involving the crime of drug trafficking. The youth of the wealthy countries could not be rescued by persecuting Colombian peasants. Colombia had already paid a heavy price as a result of the narcotics traffic. Judges, candidates for the Presidency of the Republic, advisers and many citizens had been assassinated. The drugs trade was now closely linked with guerrilla activities. The laboratories required for poppy processing and the landing strips essential for transporting the merchandise were often to be found in very isolated regions, controlled by the guerrilla movements, which were used by the traffickers to protect their traffic. It should not, however, be forgotten that coca leaf was also a cultural phenomenon in the Andean region, where it was a part of daily life among the indigenous peoples, who used it for medicinal purposes. In that connection it should be recalled that, at the previous World Health Assembly, the President of Bolivia had proposed that an organization such as the World Health Organization should be entrusted with research into the medicinal properties

of coca leaf. What had transformed that traditional crop into a problem was the arrival of chemists with their products essential for the manufacture of coca paste.

23. A question had also been raised regarding mining, and in particular the deposits of hydrocarbons and coal on indigenous land. Colombian legislation was clear on that issue: any mine situated on land governed by title predating 1986 belonged to the owner of the land in question. In other cases, the subsoil resources belonged to the nation. Two cases had arisen of communities wishing to assert their mining rights. The first was a population of indigenous origin which claimed rights over a substantial coalmine situated in the Department of Guajira; so far the community had obtained a ruling that income from the exploitation of the mine was to be paid into a frozen account, pending settlement of the issue in court. The second case related to the recent discovery of an exceptionally promising petroleum deposit in the Department of Casanare over which an indigenous community had asserted its rights. If it won its case in the courts, it would be the owner of the deposit; if not, ownership of the deposit would revert to the nation, but even then, the community concerned would benefit from the exploitation of the deposit, since the operator would have to pay dues to the municipalities situated on the land concerned.

24. Some members had regretted the absence of statistics on the indigenous communities, such as average income in comparison to the rest of the population, life expectancy, etc. Such information should be submitted separately, and Colombia would endeavour to provide it in its next report. However, it should be stressed that statistics concerning such communities were of relatively recent date: as could be seen from paragraph 29 of the report, the great majority of resguardos had originated after 1967. Most of the ethnic groups lived in great isolation, in underpopulated regions. The State had tried to make the basic elements of welfare available to them, but it was clear that, because of their precarious living conditions, it was difficult for them to derive maximum benefit and that their average income was probably very low.

25. Mrs. GALVIS (Colombia), referring to the events in Chocó in May 1987, stressed that that conflict, which was the concern of the Presidential Adviser for Human Rights, had not related to mining deposits and had not been a confrontation between indigenous communities and the Government, but had

rather been a matter of rivalries between two neighbouring tribes in Chocó. The Government had acted as arbitrator and tried to reconcile the two parties and to restore peace and security, in compliance with the function entrusted to it, which it would continue to fulfil. Colombia had kept the competent international bodies duly informed of those events, and she was surprised that a question had been raised on the issue at the previous meeting.

26. The Colombian Constitution recognized the international instruments ratified by the Government, and in particular the Convention, as sources of law which could be invoked before the country's courts. Referring to article 4 of the Convention, she said it was true that the crime of racial discrimination was not specifically provided for in the Colombian texts, apart from the relevant provisions of the Penal Code. Colombian society was, however, basically miscegenated, and the very notion of racism was totally alien to it. For her part, in her career as a lawyer, she could not recall ever having heard a reference to complaints of racial discrimination. Of course, that was not to say that there were no inequalities in Colombia, but they were due to other reasons. The text guaranteed "all persons", and therefore each member of all the ethnic groups and all the cultures which made up Colombian society, the same fundamental rights in all fields. The problem of racism did not have the same dimension as it did elsewhere, in multi-ethnic societies, so that the problem of defining and penalizing racial discrimination in terms of criminal law had not been regarded as a priority by the legislature. To accord the same treatment to all was natural in Colombia, whose population took pride in constituting a "universal race". The Colombian Government would, however, be informed of the Committee's wish that greater attention should be paid to article 4 of the Convention.

27. She also explained that the traditional territorial unit of the indigenous communities was the resguardo, a district of colonial origin which the Government had not yet abolished, since it made it possible to preserve the cultural unity of the indigenous inhabitants. The resguardos were not reservations or other places where indigenous people were brought together, as seen elsewhere. They were administrative units which were intended to encourage the preservation of the indigenous communities and which were comparable, particularly at the administrative and judicial level, to municipal authorities. Under the Colombian Constitution, such territorial units were regarded as full-fledged municipalities. As had been said at the

previous meeting, the resguardos had their own administration and were subject to the authority of an indigenous governor who was really a chief executive responsible for promulgating and implementing the law and for establishing a judicial system compatible with the practices of the community concerned, the sole restriction being compliance with the national Constitution. The report spoke of resguardos, but it would be noted that the Constitution used the expression "indigenous territories", which were on the same level as the municipalities. As far as relations between the resguardos and the central Government were concerned, mention might be made of the agreement concluded very recently between the Government of the indigenous territory to the north of Cauca and the central Government on the elimination of poppy cultivation.

28. In connection with land distribution, it should be pointed out that, once land was allotted, it was the indigenous communities that took responsibility for its management, with complete autonomy. The ownership of land was subject to the land-ownership system of the indigenous population; the Government favoured the development of communal ownership, which was the traditional system among those communities and the system to which they were attached.

29. In that connection it was to be noted that foreign elements had arrived in northern Cauca, where they had encouraged the indigenous inhabitants to cultivate the poppy. The central Government, however, had made direct contact with the indigenous governor to assess the problem, and an agreement had been concluded by which the indigenous people, aware of the dangers of the situation they had ventured into, had undertaken to abandon poppy cultivation and return to traditional community work, while the central Government had established a committee consisting of representatives of the indigenous people and members of the central administration in order to initiate a programme of substitution for poppy cultivation, to create an infrastructure of services and to develop the production system. If the Committee so wished, the text of the agreement could be communicated to it.

30. Mention had also been made of the problem of timber exploitation. The National Institute of Renewable Natural Resources and the Environment (INDERENA) had taken measures to restrain large-scale multinational concerns and to halt deforestation, of which the indigenous populations were the primary victims. INDERENA had promulgated extremely strict regulations on timber felling, requiring that persons authorized to exploit the forest must at the same time carry out appropriate replanting; measures to protect fauna

had also been taken. Much remained to be done, however, to protect the forest, indigenous land and the environment as a whole, and Colombia was endeavouring to fulfil its international commitments in that regard.

31. Mention had also been made of the registration of births and deaths of indigenous peoples. Under the provisions of the Constitution, each Colombian was entitled to legal personality, so that all births and deaths without exception must be registered with a district notary. Another question related to the percentage of the electorate availing itself of the right to vote; in Colombia, voting was not compulsory, but rather a right which everyone could claim from the age of 18 years. The rate of abstention was established at each election. In any case, the Constitution guaranteed the right to vote to all, including of course indigenous people.

32. The Colombian programme of bilingual education had been launched in 1975. It had been greatly extended since then, with the cooperation of the French National Institute for Scientific Research, which had contributed to the training of ethnolinguists. That had made it possible to set up a team responsible for training specialized teachers to provide bilingual instruction to the indigenous peoples.

33. Various seminars had been held to that end in different parts of Colombia. Thanks to the action taken by the new indigenous administration, the different communities themselves would have the possibility of organizing instruction in their respective territories - and likewise health services - with the assistance of the competent ministries.

34. In connection with the declaration provided for in article 14 of the Convention, she said that the Colombian Government still had the matter under review and would communicate its conclusions to the Committee in its next report. Finally, she would ensure that replies were forthcoming to the other questions raised when she had been able to transmit them in writing to her country's authorities.

35. Mr. MESTRE SARMIENTO (Colombia), referring to the important decision taken by the Colombian Government to protect ecosystems and to respect the rights of the indigenous inhabitants in the Amazon area, said that the decision, which was referred to in paragraph 26 of the report, must aim at entrusting the development of the Amazon Basin to the communities that had always lived there. It seemed to him that that was the best way of preserving a resource vital to all mankind and of complying with his country's commitment

to the international community to protect both the human resources - the ethnic groups living in the region - and the natural resources of the Amazonian forest, which covered a fifth of Colombian territory.

36. In the absence of the requisite statistics, he was unable to reply to certain of the questions raised, but would not fail to communicate them to his Government.

37. Mr. WOLFRUM said that he wished to take up some points which had just been made. First of all, with regard to preservation of the common heritage of mankind, it was evident that the commitment undertaken by Colombia to protect the Amazonian forest and the peoples who lived there was extremely positive and that many countries should follow that example. Secondly, on a number of occasions the issue had been raised of what should be understood by "racial discrimination". In particular, it had been said that the phenomenon was linked to the domination of the colonial Powers and that multi-ethnic societies were free from racial discrimination. Colombia was far from being the only multiracial society scrutinized by the Committee; in such countries as Canada, which also took pride in being a multi-ethnic society, there could be no denying that there was racial discrimination, in the very broad sense covered by the Convention. The commitment undertaken by States under article 2, paragraph 1 (c), of that instrument was extremely broad and very few societies, seen in that perspective, could claim to be exempt from that scourge.

38. The Colombian delegation had also stated that its country was currently confronting the same difficulties as many other democracies. In that connection, he read out the conclusions adopted by consensus by the Human Rights Committee on 14 July 1992, which affirmed that the violence in Colombia (murders, torture, disappearances), although diminishing, continued to cause concern, as did the impunity enjoyed by the law enforcement authorities: in such circumstances it would be difficult to refer to "normal" problems of a democracy. In that regard he would have welcomed information on the incidents that had occurred in the Department of Cauca, where some 20 Indians had recently been killed by military or paramilitary groups.

39. It would also be recalled that the question of the implementation of article 4 of the Convention had already been brought to the attention of the Colombian Government during the consideration of previous reports.

40. Finally, the representative of Colombia had rejected his (Mr. Wolfrum's) use of the expression "period of transition" in regard to Colombia: that, however, was the term used recently by a representative of Colombia in the Human Rights Committee.

41. Mr. YUTZIS emphasized that a country such as Colombia did not experience the type of systematic racism to be encountered in the countries of the North; the contexts were different and the forms more subtle. In that country, as in other Latin American countries, what was to be seen was rather a stratification of society which might coincide with skin colour. The reasons for that should be studied. To obtain a clearer view, statistics were necessary, and the Committee should receive them in order to have a basis for its conclusions.

42. Mr. Mestre Sarmiento and Mrs. Galvis (Colombia) withdrew.

Ninth and tenth periodic reports of Chile (CERD/C/196/Add.1)

43. The CHAIRMAN announced that, for the consideration of the ninth and tenth periodic reports of Chile, the Chilean delegation would consist of Mr. Bengoa, Director of the Special Commission for Indigenous Peoples in Chile, and Mr. Oyarce, Counsellor to the Permanent Mission of Chile at Geneva.

44. At the invitation of the Chairman, Mr. Bengoa and Mr. Oyarce (Chile) took places at the Committee table.

45. Mr. BENGOA (Chile) drew attention to the historical outline in chapter I of his country's report (CERD/C/196/Add.1), which described the evolution of the Indian peoples, pointing out in particular that in paragraph 23 it was acknowledged that "throughout the republican history of Chile there has been discrimination against the Mapuches". It was further recognized that the Aymaras, who lived in the north of the country, and the Rapanui inhabitants of Easter Island had also suffered discrimination.

46. Chapter III of the report was presented in terms of specific articles of the Convention. In that part too it was acknowledged, contrary to certain claims in earlier reports, that discrimination had been very pronounced in Chilean history. It was, however, emphasized that no discrimination was countenanced by the Constitution and legislation. The indigenous peoples enjoyed the right to vote, the right to basic education, the right to own property, the right to conclude contracts and the other rights to which all

Chilean citizens were entitled. Problems of discrimination were rather to be found at the level of cultural differences and in terms of the right of minorities to be recognized with their specific differences.

47. The action taken by the democratic Government to eliminate infringements of the rights of Chilean indigenous peoples was the subject-matter of chapter II of the report. Section 1 of that Chapter gave details of a proposal for reform of the Constitution, making specific provision in article 1 of the Constitution for the rights of the indigenous peoples. The amendment had been adopted by 90 votes to 1 in the Chamber of Deputies and was at the second stage of approval by Parliament. The Executive had also transmitted ILO Convention No. 169 to Parliament, and at the end of 1991 had submitted to it a new bill on the protection and development of the indigenous peoples which was based on an extensive discussion among the indigenous communities. The bill, whose main elements were set forth in paragraph 67, should be adopted during the current year. The text would mark an important change in the relations between the Chilean State and the indigenous peoples, the aim being to eliminate discrimination in Chile.

48. He also emphasized that, while in theory the indigenous inhabitants benefited from equal access to education, in practice they suffered from economic, cultural, geographical and other forms of discrimination in that field. To remedy that situation, a major programme of scholarships had been launched, starting in 1991. In 1992, 4,500 scholarships had been allocated for secondary, technical, vocational and university education. There were 750 indigenous scholarship-holders at university level, and that figure should increase perceptibly in 1993.

49. Numerous conflicts persisted between the indigenous inhabitants and landowners, who for the most part were the descendants of the colonists to whom the indigenous land had been allocated in the nineteenth century. The Government had established a special commission for the indigenous peoples, which had at its disposal, in particular, a legal service, for which 14 lawyers distributed among the principal indigenous zones were working. The service monitored, without charge, disputes in which indigenous people were involved and which the proposed new legislation would make it possible to resolve more satisfactorily. In that connection, he mentioned a case in which a 30,000-hectare estate in the south of the country, known as "Quinquen",

where there were trees sacred to the indigenous people, had been allocated to the indigenous inhabitants after its purchase by the Government, thus ending a dispute which had gone on for several decades.

50. The development of the indigenous communities was another priority of the incumbent Government. A system had been established by which those communities themselves submitted projects. A fund of almost $3 million, which would be increased, was used to meet the requests of the communities. Currently, 124 projects were at the implementation stage, and a further 200 were to be launched in the coming months.

51. The democratic Government in office had undertaken to eliminate all forms of discrimination. While it was true that certain forms existing in practice and in everyday life were difficult to overcome, and certainly could not be totally eliminated in the short term, it was a matter of the highest priority to continue to make progress in that direction.

52. Mrs. SADIQ ALI, country rapporteur for Chile, first of all welcomed the fact that, in submitting its ninth and tenth reports, Chile had shown its determination to continue its dialogue with the Committee. Unfortunately, the reports still did not comply with the Committee's guidelines. To some extent they supplemented the eighth report (CERD/C/148/Add.4), but they were difficult to assess.

53. The eighth report had been considered against the background of Chile's transition to democracy, after the departure of the Pinochet regime following the referendum of 4 October 1988. The Chilean Government was currently pursuing a programme of constitutional reform, but the latest two reports did not indicate what Constitution was currently in force. It should also be noted that the elected Government did not have a majority in the Senate, since the Pinochet administration had appointed the members of the Senate in such a way as to avoid the adoption of "unpleasant reforms". It was also known that General Pinochet would remain commander of the armed forces and a member of the National Security Council until 1997. The constitutional amendments were thus virtually doomed to failure, since they must be approved by three-quarters of the senators and deputies. Moreover, a wave of violence in the first quarter of 1991 seemed to have restored the initiative to General Pinochet.

54. The report under consideration (CERD/C/196/Add.1) still did not contain a definition of racial discrimination. None the less, it should be noted that, according to paragraph 68 of the document, "racial discrimination has been extremely acute" throughout the country's history. The report also condemned the Pinochet Government's policy of assimilation, which was aimed at forcing the indigenous inhabitants to abandon their culture and their language.

55. On the question of demography, discrepancies were to be noted in the figures given in paragraphs 58 and 65 of the document concerning ethnic groups. She wondered whether in Chilean censuses "ethnic groups" meant the same as "the indigenous population"; it would be desirable to find out the demographic composition of that population. It would also be useful to have information on the existence of a population of African origin in Chile. The historical outline given in the report on the subject of the Mapuches, the Aymaras and the Easter Islanders was very useful, and the same should have been done for all the indigenous groups. The Yamanas were not even mentioned in the report under consideration: had they disappeared? She recalled that the Chilean Government had already been asked to provide up-to-date information on the demographic composition of the population, and the indigenous population in particular (CERD/C/SR.846, para. 45).

56. A reform of indigenous policy was contemplated in Chile. Draft amendments to articles 1 and 19 of the Constitution were mentioned in paragraph 62 of the report. Paragraph 65 referred to a bill designed to ensure respect for the specific rights of 1 million Chileans belonging to the various ethnic groups. It would be useful for the Committee to receive details of the text. She asked whether amendments had already been made to the Constitution. She also asked how ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries was being implemented. Were the indigenous peoples represented in Parliament and in municipal bodies?

57. The Mapuche people continued to campaign for the repeal of Decree No. 2568 of 1979, which allotted land on an individual and unjust basis, as was stated in paragraph 10 of the report. Referring to paragraph 67 (b) of the report, she asked whether it implied that land reform was envisaged. In that connection, it should be pointed out that Chile's land policy was a

matter of concern to the Special Rapporteur of the Commission on Human Rights. She also asked whether the 1979 law mentioned by Chile in its reply concerning the eighth report, a law to which the Mapuches were opposed, would be amended or repealed.

58. The expropriation of Mapuche land was unfortunately continuing. The land of 10,000 Mapuches from the communities of Arunco and Cantin were to be flooded by five hydroelectric dams. Furthermore, the newsletter of the International Work Group for Indigenous Affairs for January-March 1992 stated that a July 1990 decision of the Supreme Court calling for the eviction of the Mapuches from their ancestral land was about to be enforced and that 400 policemen from three provinces had been mobilized to eject 150 indigenous people. The Supreme Court's decision gave the impression that citizens' rights applied according to the racial origin of the person in question.

59. The Aymaras, who lived in the Andean region, had also been deprived of joint titles of ownership, a situation which had led to serious conflicts. It would be useful to learn whether some of those conflicts had been resolved, and through what procedures. According to paragraph 67 (u) of the report, in the case of the Huilliches, their traditional cacique system was to be restored; would that apply to the Aymara people? Decree No. 1122 of 1981 had deprived the Aymara communities of their rights to water supply, which were vital for their agriculture, in order to supply the large mining companies instead. It would be interesting to know how the recently established National Indigenous Development Corporation could resolve that situation. She hoped that information would be provided on that issue in the next report.

60. The number of Easter Islanders was given as 785 persons in paragraph 45 of the report, and as 3,090 in paragraph 58. Which figure was correct? The land ownership rights of that community were still restricted by Decree-Law No. 2885 of 1979, which accorded ownership titles to Chileans. She would like to know how the situation was developing.

61. Turning to the specific articles of the Convention, she requested, in connection with article 2, paragraph 1 (c), that Chile should provide information in its next report on what had been done to amend or rescind any laws and regulations which had the effect of perpetuating racial discrimination. With regard to paragraph 1 (e) of that article, she asked whether there were any integrationist and multiracial movements in Chile. It was a matter for regret that the report contained no information on

article 3. In connection with article 4, she recalled that, according to the eighth periodic report of Chile, a bill had been submitted to Parliament on the implementation of that article. The bill had been under consideration for 16 years. Moreover, the Penal Code and the Code of Penal Procedure contained provisions on legal violations of the rights of the indigenous population, whose status remained ill-defined. It would be useful to know whether those provisions had been amended.

62. With regard to article 5 of the Convention, she noted, in connection with the eviction order against the Mapuches adopted by the Supreme Court in July 1990, that the Supreme Court was still composed of judges appointed under the military dictatorship, and that it continued to curb investigations into past human rights violations, according to an Amnesty International report of 1991, which had also pointed out that the Government was proposing reforms aimed at guaranteeing a fair trial and restricting the jurisdiction of military courts to military offences. Information on those issues would be appreciated.

63. In connection with the economic, social and cultural rights provided for under article 5 (e) of the Convention, it would be interesting to have statistics on education, employment, housing and medical care among the various indigenous groups and in the shanty towns. Some 200,000 Mapuches were crammed into the shanty towns of Santiago, occupying the lowest rung on the social ladder. Overall unemployment had reached 21 per cent under the Pinochet regime: what was the current figure?

64. The information requested by Mr. Ferrero Costa on the implementation of article 6 had still not been provided. It would also be useful to have further details about the National Commission for Truth and Reconciliation, established by President Aylwin. The Commission was said to have found that the judiciary had failed in two crucial respects. First of all, it had rejected hundreds of habeas corpus petitions, response to which would have prevented many cases of disappearances. Furthermore, civil judges were alleged to have abandoned their duty to review the procedures of military courts. Various forms of reparation had been contemplated, but it should not be forgotten that the Supreme Court had upheld the amnesty law adopted under the military dictatorship in 1978, and had dismissed many requests for an

inquiry into human rights violations. In fact, both the Government and the opposition parties now recognized the need for a radical overhaul of the judicial system.

65. In connection with article 7 of the Convention, information was needed on what was being done in the field of education and training to promote awareness of the problems of discrimination among teachers, the police, magistrates and the military. Was the public being informed of the provisions of the Convention and their application? Finally, in connection with article 14, she asked whether the Chilean Government was considering making the declaration provided for under that article.

66. In conclusion, while noting that the new civilian Government was trying to carry out constitutional reforms, she regretted the absence of legislative and other measures to ensure implementation of articles 1, 4, 5 and 6 of the Convention. She asked the Chilean Government to take the necessary steps to resolve the unsatisfactory situations to which she had referred, and expressed the hope that significant progress would be achieved in that direction by the time the next report was submitted.

67. The CHAIRMAN, responding to a request from Mr. Aboul-Nasr, and with the agreement of the Chilean delegation, suspended consideration of the report of Chile in accordance with rule 42 of the Committee's rules of procedure.

68. Mr. Bengoa and Mr. Oyarce (Chile) withdrew.

DRAFT LETTER TO THE CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS CONCERNING THE SITUATION IN FORMER YUGOSLAVIA

69. At the request of Mr. Ahmadu, the representatives of the press and information services withdrew.

70. Mr. ABOUL-NASR said that he had taken the liberty of interrupting the discussion because of the grave deterioration in the situation in Bosnia and Herzegovina and the request for the convening of the Commission on Human Rights. The Committee was concerned by the issue, and should make its views known. Some of its members had consulted each other and had concluded that the Committee should address a letter to the Chairman of the Commission on Human Rights, through the Secretary-General. They had accordingly prepared a draft letter in English, which read:

"Sir,

The Committee on the Elimination of Racial Discrimination has followed with grave concern the developments taking place in former Yugoslavia. It welcomes the convening of the Exceptional Session of the

United Nations Commission on Human Rights to examine the situation arising from the massive human rights violations taking place, particularly in Bosnia Herzegovina, as a result of the policy of 'ethnic cleansing' being carried out by Serb militias. This aspect of the tragic situation is of particular concern to the Committee. The Committee would like to join in expressing alarm at the situation and trusts that the Commission on Human Rights will take expeditious and effective measures at its forthcoming Exceptional Session to put an end to the violations of human rights and human suffering and provide protection for the innocent civilian population. The Committee expresses its readiness to cooperate in this endeavour within the framework of the mandate entrusted to it by the Convention on the Elimination of All Forms of Racial Discrimination."

He said that the text represented a compromise, and expressed the hope that, in view of the urgency of the situation, the Committee could adopt it by consensus.

71. Mr. van BOVEN said that he welcomed the initiative, but suggested that a few minor changes could be made to the text. Firstly, it would be preferable, from a procedural point of view, to address the letter solely to the Chairman of the Commission on Human Rights, rather than to the States members of that body. Secondly, in so far as it was still not known whether the special session of the Commission would take place, in the second sentence of the text, the words "It welcomes" should be replaced by "It would welcome". Thirdly, also in the second sentence, it would be more prudent to delete the words following "ethnic cleansing". Fourthly, he proposed that "will take" should be replaced by "may take" in the fourth sentence of the text. Finally, the adjective "innocent", which preceded the words "civilian population" in the same sentence, seemed to him to be superfluous.

72. Mr. DIACONU fully agreed with the proposed amendments, which he thought worthwhile and necessary, particularly the third one. For his part, he suggested that, in the penultimate sentence of the text, the words "to put an end to the violations" should be replaced by "with a view to putting an end to the violations", which would correspond more closely to the competence of the Commission on Human Rights.

73. Mr. AHMADU said he entirely agreed that the Committee should express its concern at the situation, and was prepared to accept all the amendments proposed by Mr. van Boven. However, he considered, that it would be more

effective to address the letter to the Secretary-General of the United Nations, since the Security Council was the only body with the authority to order a cessation of hostilities.

74. Mr. RECHETOV proposed that, in order not to prejudge the decisions which the Commission on Human Rights might take at its special session, if it were to be held, the following sentence should be inserted in the text, after the second sentence: "The Committee notes the deep concern of the Security Council expressed at the continuing reports of widespread violations of international humanitarian law and, in particular, reports of the imprisonment and abuse of civilians in camps, prisons and detention centres within the territory of the former Yugoslavia and especially in Bosnia Herzegovina."

75. Mr. SHAHI said he was prepared to accept the proposal of Mr. Rechetov and that of Mr. Diaconu. On the other hand, he opposed the deletion of the reference to the Serb militias in the second sentence of the proposed text, since the responsibility of the Serbs for the situation prevailing in Bosnia and Herzegovina was beyond doubt. The Committee was a body of independent experts which had a duty to condemn acts violating human rights and acts of discrimination. The main point was to bring about a cessation of hostilities, and in view of the inaction of the Security Council and the international community he recommended that the Committee should address the proposed letter directly to the Secretary-General of the United Nations, stating very clearly that the situation called for appropriate measures by the Security Council to end the conflict.

76. Mr. GARVALOV said he did not believe that the convening of a special session of the Commission on Human Rights would serve to relieve the Security Council of responsibility for the issue. He agreed to the text proposed by Mr. Rechetov and suggested that it should state that the Committee expected the Commission to take measures to help the United Nations (or the international community) to put an end to the situation.

77. Mr. de GOUTTES thought that the Committee could not remain silent in the face of the grave human rights violations taking place in Bosnia and Herzegovina. The proposed special session of the Commission provided it with an opportunity to make a gesture in that direction.

78. However, the question raised far too serious substantive issues for the Committee to dwell unduly on matters of form. Regretting that the draft letter had been prepared only in English, he none the less found the proposed

text acceptable, as also the supplementary proposal by Mr. Rechetov. Finally, he would favour publication of the letter, in order to make it fully apparent that the Committee was concerned about the problem.

79. Mr. WOLFRUM said he did not think that it was necessary to address the letter to the Secretary-General. He also hoped that the reference to the Serb militias would be retained. Finally, he was in favour of publishing the letter once it had been adopted.

80. Mr. FERRERO COSTA expressed the hope that the Committee would act pragmatically and that it would adopt, without delay and by consensus, a text which in his opinion should be addressed to the Chairman of the Commission on Human Rights and should be published. With regard to Mr. Rechetov's proposal, he would go along with the view of the majority.

81. Mr. SHAHI read out the text of the draft letter, incorporating the amendments proposed by Mr. van Boven (without deleting the reference to the Serb militias), the amendment proposed by Mr. Diaconu, Mr. Rechetov's text, and also some minor changes that he himself was suggesting by which, in the third sentence, "This aspect" would be replaced by "These aspects" and, in the fourth sentence "the Commission on Human Rights will take" would be replaced by "the Commission on Human Rights would take". He invited all members of the Committee to approve that wording.

82. Mr. DIACONU, arguing that, according to some sources of information, the Serb militias did not appear to be the only party involved, suggested that the text should be modified slightly so that "'ethnic cleansing'" in the second sentence would be followed by "which, according to some sources, is being carried out by Serb militias".

83. Mr. SHAHI stressed that the Committee was composed of independent experts who had a duty to put the cause of human rights above any political consideration. How could there be 2.2 million refugees in the region if there was no "ethnic cleansing"? Even though the Croats might also have committed reprehensible acts, it was well known who was responsible for the situation.

84. Mr. SONG Shuhua shared Mr. Diaconu's view, and said he would be prepared to accept the proposed wording if it were the subject of consensus.

85. Mr. van BOVEN agreed that responsibility for the situation should not be laid entirely at the door of the Serbs. He therefore thought it more prudent to delete the reference to the Serb militias, but would not insist on the point.

86. Mr. ABOUL-NASR said that although he wholeheartedly agreed with Mr. Shahi's point of view, he would agree to delete the contentious reference in the interests of reaching a consensus.

87. Mr. SHAHI and Mr. AHMADU said that they would abstain on the issue.

88. A vote was taken by show of hands on the proposal to retain the reference to Serb militias in the second sentence.

89. The proposal was accepted by 11 votes to 1, with 4 abstentions.

90. The draft letter as a whole, as amended, was adopted by consensus.

The meeting rose at 6.35 p.m.

(75.)

PROVISIONAL
For participants only

CERD/C/SR.946
11 August 1992

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-first session

PROVISIONAL SUMMARY RECORD OF THE FIRST PART (PUBLIC)*
OF THE 946th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 7 August 1992, at 10 a.m.

Chairman: Mr. VALENCIA RODRIGUEZ

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Letter to the Chairman of the Commission on Human Rights (continued)

* The summary records of the second part (closed) and the third part (public) of the meeting appear as documents CERD/C/SR.946/Add.1 and CERD/C/SR.946/Add.2 respectively.

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GE.92-17001/4896H

The meeting was called to order at 10.10 a.m.

LETTER TO THE CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS (continued)

The CHAIRMAN welcomed the Under-Secretary-General for Human Rights and informed him that, on the previous day, the Committee had adopted by consensus a letter addressed to the Chairman of the Commission on Human Rights concerning developments in the former Yugoslavia. He read out the text of the letter and of the covering letter to the Secretary-General, and transmitted them to the Under-Secretary-General for appropriate action.

The meeting rose at 10.25 a.m.